



December 29, 2005

Treva J. Knasel
Ohio Department of Natural Resources
Division of Mineral Resources Management
2045 Morse Road, Bldg H-3
Columbus, OH 43229-6693

Dear Treva,

In response to your letter dated November 15, 2005 requiring revisions to the Ohio Valley Coal Company's Application to Revise a Permit, A.R.P. R-0360-64, the following revisions have been completed.

ARP Review

1. Submitting updated Buffer Zone Variance Request (BZVR).

Hydrology Review

1. See revised Addendum to ARP, ITEM 4.
2. See revised Addendum to ARP, ITEM 4.
2. Correspondence with the Ohio Division of water is enclosed, as is a copy of the USACOE application letter requesting modification of our existing NWP 21 for this facility. The MSHA approval letter is attached.
3. Submitting updated BZVR. Streams & buffer zones are shown on the ARP Application map.

Map Review

1. Showed buffer zones for all streams.
2. Clearly defined current permit limits, did not show affected area limits.

Please do not hesitate to call if you have any questions concerning this submittal.

Sincerely,
THE OHIO VALLEY COAL COMPANY

David L. Bartsch, P.E.
Environmental Coordinator and
Permit Administrator

cc: File

56854 PLEASANT RIDGE ROAD • ALLEDONIA OHIO 43902
(740) 926-1351 • FAX (740) 926-1615

November 15, 2005

David Bartsch, P.E.
The Ohio Valley Coal Co.
56854 Pleasant Ridge Rd.
Alledonia, OH 43902

Dear Mr. Bartsch:

The Division of Mineral Resources Management completed our review of your recent Application to Revise a Permit (ARP) #R-360-64 on November 15, 2005 in which you propose to modify your permitted mining and/or reclamation plan. The following revisions are required before we can further consider your request.

A. ARP Review

1. For proposed additional disturbance to streams, submit an updated Stream Buffer Zone Variance Request (BZVR) that addresses all impacted streams and buffer zones.

B. Hydrology Review

1. Per OAC 1501:13-4-14(E) and OAC 1501:13-9-09(C), discuss measures to protect the hydrologic balance and update the probable hydrologic consequences narratives presented in ARP R-0360-56.
2. Per OAC 1501:13-4-13(F), discuss impacts to legitimately used supplies and alternative sources of water, as necessary.
2. Submit appropriate correspondence from the Ohio Division of Water, the Ohio EPA, USACOE, and MSHA that discusses approval of the proposed project.
3. Per OAC 1501:13-9-04(E), update the Stream Buffer Zone Variance Request if necessary. The request shall conform to the requirements of PPD Permitting & Hydrology 98-1. Show streams and stream buffer zones on appropriate maps.

C. Map Review

1. Show buffer zones for all streams.
2. The affected area, as shown on the map, is not relevant to this ARP; however, the permit limits are relevant. Revise to **clearly define** the current permit limits.

Please submit the required revisions within thirty (30) days of this letter to avoid delays in our review of your proposal. Should you require additional time, please do not hesitate to contact me. Failure to submit the required revisions in a timely manner may result in your proposal being returned without further action.

Sincerely,

Treva J. Knasel
Application Manager
Permitting, Hydrology & Bonding Section

c: Kevin Ricks
Mike Dillman
File

ADDENDUM TO PART 3, PAGE 27, ITEM G(5)
STREAM BUFFER ZONE VARIANCE REQUEST
THE OHIO VALLEY COAL COMPANY

CORRECTED SHEET
CORRECTION NO. 1 DHRA
CORRECTION DATE 12/29/01

Chief
Ohio Department of Natural Resources
Division of Mineral Resource Management
2045 Morse Road, Bldg. H-3
Columbus, Ohio 43229-6693

Dear Chief,

The Ohio Valley Coal Company is hereby requesting a variance to conduct refuse disposal operations within the buffer zone of unnamed intermittent streams as shown on the permit application map and described below.

SPECIFIC ACTIVITIES:

Unnamed Stream "C"

Activities to be conducted within the 100 foot buffer zone of Stream "C" located within Permit D-0360 consists of raising the water elevation within the existing coal refuse disposal area. All topsoil will be removed within the proposed affected area.

For purpose of description, Stream "C" flows in a southwesterly direction. The stream channel will be disturbed and eliminated up to the 1135 elevation. Approximately one hundred (100) additional feet of the Stream "C" channel will be affected by this activity.

Existing environmental conditions in Stream "C" are described in the approved BZVR in R-0360-56.

Stream "C" has been previously affected downstream by coal refuse disposal.

The duration of activities within the buffer zone of Stream "C" will be approximately 11 months. Disturbance of this buffer zone will begin upon approval of A.R.P. R-0360-64.

Unnamed Stream "E"

Activities to be conducted within the 100 foot buffer zone of Stream "E" located within Permit D-0360 consists of raising the water elevation within the existing coal refuse disposal area. All topsoil will be removed within the proposed affected area.

For purpose of description, Stream "E" flows in a southwesterly direction from head of hollow. The stream channel will be disturbed and eliminated up to the 1135 elevation. Approximately forty (40) additional feet of the Stream "E" channel will be affected by this activity.

Existing environmental conditions in Stream "E" are described in the approved BZVR in R-0360-56. Stream "E" has been affected downstream by coal refuse disposal.

The duration of activities within the buffer zone of Stream "E" will be approximately 11 months. Disturbance of this buffer zone will begin upon approval of A.R.P. A.R.P. R-0360-64.

Unnamed Stream "F"

Activities to be conducted within the 100 foot buffer zone of Stream "F" located within Permit D-0360 consists of raising the water elevation within the existing coal refuse disposal area. All topsoil will be removed within the proposed affected area.

For purpose of description, Stream "F" flows in a southeasterly direction from head of hollow. The stream channel will be disturbed and eliminated up to the 1135 elevation. Approximately one hundred fifty-five (155) additional feet of the Stream "F" channel will be affected by this activity.

Existing environmental conditions in Stream "F" are described in the approved BZVR in R-0360-56.

Stream "F" has been affected downstream by coal refuse disposal.

The duration of activities within the buffer zone of Stream "F" will be approximately 11 months. Disturbance of this buffer zone will begin upon approval of A.R.P. R-0360-64.

See approved BZVR in Permit D-0360-8 for Borrow Area activities within the buffer zone of Streams "C", "E", and "F".

Unnamed Stream "H"

Activities to be conducted within the 100 foot buffer zone of Stream "H" located within Permit D-0360 consists of raising the water elevation within the existing coal refuse disposal area. All topsoil will be removed within the proposed affected area.

For purpose of description, Stream "H" flows in a southeasterly direction from head of hollow. The stream channel will be disturbed and eliminated up to the 1135 elevation. Approximately forty (40) additional feet of the Stream "H" channel will be affected by this activity.

Existing environmental conditions in Stream "H" are described in the approved BZVR in R-0360-56.

Stream "H" has been affected downstream by coal refuse disposal.

The duration of activities within the buffer zone of Stream "H" will be approximately 11 months. Disturbance of this buffer zone will begin upon approval of A.R.P. R-0360-64.

Unnamed Stream "I"

Activities to be conducted within the 100 foot buffer zone of Stream "I" located within Permit D-0360 consists of raising the water elevation within the existing coal refuse disposal area. All topsoil will be removed within the proposed affected area.

For purpose of description, Stream "I" flows in a southerly direction from head of hollow. The stream channel will be disturbed and eliminated up to the 1135 elevation. Approximately seventy (70) additional feet of the Stream "I" channel will be affected by this activity.

Existing environmental conditions in Stream "I" are described in the approved BZVR in R-0360-56.

Stream "I" has been affected downstream by coal refuse disposal.

The duration of activities within the buffer zone of Stream "I" will be approximately 11 months. Disturbance of this buffer zone will begin upon approval of A.R.P. R-0360-64.

Identification of Ephemeral Stream Channels

There are four (4) ephemeral stream channels that will be affected by the proposed raising of the water level at the #2 Dam site.

Ephemeral channel E1 is located in the second hollow south of Unnamed Stream "H". Approximately 25 additional feet of this channel will be affected by raising the water level to 1135 elevation at this site.

Ephemeral channel E2 is located in the first hollow south of Unnamed Stream "H". Approximately 20 additional feet of this channel will be affected by raising the water level to 1135 elevation at this site.

Ephemeral channel E3 is located in the first hollow south of Unnamed Stream "F". Approximately 33 additional feet of this channel will be affected by raising the water level to 1135 elevation at this site.

Ephemeral channel E6 is located in the steep hollow in the northwest quarter of Section 29. Approximately 30 additional feet of this channel will be affected by raising the water level to 1135 elevation at this site.

These ephemeral channels are small hollow depressions that create flow only during periods of sustained rainfall. Streams in, and buffer zones of, the ephemeral channels are not required to be, and therefore are not being shown on the A.R.P. Application map.

NECESSITY FOR ACTIVITIES:

The existing #2 Dam refuse disposal area is nearly filled to currently approved capacity. Additional slurry refuse disposal area is necessary while permitting of a new area for this purpose is completed and approved by the appropriate regulatory agencies.

Other disposal sites were considered on areas owned by The Ohio Valley Coal Company remote from the existing disposal area. These sites were eliminated from consideration for several reasons. They would require haulage of refuse along township or county roads. This would create the potential for pollution of streams away from the permit as well as refuse dropping from the haulage vehicles onto the public roads. The construction of the disposal area would require an entirely new and separate system of pollution controls whereas the main pollution controls for the proposed site are in existence.

WATER QUALITY/QUANTITY AND ENVIRONMENTAL RESOURCES:

Water quality and quantity in Unnamed Streams "C", "E", "F", "H", and "I", is addressed in approved ARP R-0360-56 BZVR. (See approved permit D-0360-8 for sample analyses)

Riparian vegetation within the stream channels consist of typical plant life, while the buffer zones are forested or forested pasture with shrubs, small trees and hardwoods.

There are numerous wooded areas and streams surrounding the site on land owned by The Ohio Valley Coal Company that will provide wildlife habitat and travel corridors until the site is reclaimed.

Per the previous R-0360-56 ARP for the same purpose, an Ohio EPA 401 certification is not required for this site. These activities can be covered under the Nationwide 21 permit. An application for coverage under the Nationwide 21 permit has been submitted to the Army Corps of Engineers.

SEQUENCING OF OPERATIONS

The total life of this coal slurry refuse disposal facility extension is projected to be approximately 11 months. The sequence of proposed activities is as follows:

1) Topsoil removal and stock piling

2) Refuse placement

STREAM RECONSTRUCTION, DIVERSION OR RELOCATION:

No stream reconstructions or relocations are applicable for this project. All stream and buffer zone affects as well as sequencing of operations, are discussed in the previous sections of this document.

REVEGETATION:

Revegetation in the buffer zone areas described herein is not applicable due to the circumstances of the proposed A.R.P.

All work within the stream buffer zone will be performed in timely and workmanlike manner to prohibit as best as can be accomplished; detrimental affects upstream.

Sincerely,

ADDENDUM TO ARP ITEM 4
THE OHIO VALLEY COAL COMPANY
PERMIT D-0360, ARP R-0360-64

PROBABLE HYDROLOGIC CONSEQUENCES

Part 2, Page 18, E(1,2,3):

Measures to protect the hydrologic balance from impacts, and probable hydrologic consequences from refuse disposal operations have been addressed in approved Adjacent Area Application D-0360-8 and A.R.P. R-0360-56. No circumstances or conditions as stated in R-0360-56 have changed since the issuance of the referenced ARP.

Part 2, Page 18, F(1 & 2):

Alternate water supply information as addressed in approved Permit D-0360-8 also applies to this ARP proposal. No additional legitimately-used ground or surface water supplies will be encountered or impacted by raising the water elevation to 1135.

Part 3, Page 27, Item G(5):

Please see attached (updated) Buffer Zone Variance Request that addresses additional disturbance impacts to streams and buffer zones.

USACOE APPLICATION



December 22, 2005

Mr. Fred E. Pozzuto
Regulatory Project Manager
U.S. Army Corps of Engineers, Pittsburgh
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh PA, 15222-4186

Dear Mr. Pozzuto,

Enclosed is an application to modify our existing Nationwide Permit 21 for our No. 2 slurry impoundment located in Belmont County, Ohio. A map is enclosed showing the location of the work. This modification involves the raising of the impoundment 5 ft to elevation 1135. This work is needed to support our ongoing underground coal mine.

If you have any questions, please contact me. Thank you for your consideration of this important matter.

Sincerely,
THE OHIO VALLEY COAL COMPANY

David L. Bartsch, P.E.
Environmental Coordinator and
Permit Administrator

cc: C. I. Borrell
File

56854 PLEASANT RIDGE ROAD • ALLEDONIA OHIO 43902
(740) 926-1351 • FAX (740) 926-1615

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT

ENGINE FORM 1345

(33 CFR 325)

OMB APPROVAL NO 0710-0003

Expires December 31, 2004

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service, Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 44 USC, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
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(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME THE OHIO VALLEY COAL COMPANY	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required)
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6. APPLICANT'S ADDRESS 56854 PLEASANT RIDGE ROAD ALLEDONIA, OH 43902	9. AGENT'S ADDRESS
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7. APPLICANT'S PHONE NUMBERS W/AREA CODE	10. AGENT'S PHONE NUMBER W/AREA CODE
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a. Residence	a. Residence
b. Business 740-926-1651	b. Business

STATEMENT OF AUTHORIZATION

I hereby authorize _____ to act in behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)
NO. 2 SLURRY IMPOUNDMENT - REQUEST MODIFICATION OF EXISTING NWP 21 PERMIT TO RAISE SLURRY IMPOUNDMENT ADDITIONAL 5 FT

13. NAME OF WATERBODY, IF KNOWN (if applicable)

PERKINS RUN

14. PROJECT STREET ADDRESS (if applicable)

15. LOCATION OF PROJECT

BELMONT

OH

COUNTY

STATE

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN. (see instructions)

17. DIRECTIONS TO THE SITE

TAKE BELMONT COUNTY HIGHWAY 86 NORTH OFF STATE ROUTE 148. TO ¼ MI AND TURN LEFT INTO PARKING LOT. SITE IS ON HILL ABOVE THE PARKING LOT/BATH HOUSE

18. Name of Activity (Description of Project, include all features)
SLURRY IMPOUNDMENT

PROJECT PURPOSE (Describe the reason or purpose of the project, see instruction.)

COAL MINING

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. REASON(S) FOR DISCHARGE:

21. TYPE(S) OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN CUBIC YARDS

22. SURFACE AREA IN ACRES OF WETLANDS OR OTHER WATERS FILLED (see instruction)

23. IS ANY PORTION OF THE WORK ALREADY COMPLETE? YES NO IF YES DESCRIBE THE COMPLETED WORK

ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC., WHOSE PROPERTY ADJOINS THE WATERBODY (if you have more that can be here, please attach a supplemental list).

MERLE PERKINS
57611 PLEASANT RIDGE ROAD
ALLEDONIA OH 43902

25. LIST OF OTHER CERTIFICATIONS OR APPROVAL/DENIALS RECEIVED FROM OTHER FEDERAL, STATE, OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION.

AGENCY	TYPE APPROVAL	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
MSHA	PLANS	1211-OH08-0025-003	10/31/05	12/13/05	
DMRM	PERMIT	D-0360	10/31/05		
OHIO DOW	PLANS	075-87	10/31/05		

Would include but is not restricted to zoning, building and floodplain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.



Signature of Applicant

12-22-05

Date

Signature of Agent

Date

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

MSHA APPROVAL LETTER

U.S. Department of Labor

Mine Safety and Health Administration
604 Cheat Road
Morgantown, West Virginia 26508



DEC 13 2005

Mr. Jerry M. Taylor
Corporate Safety
The Ohio Valley Coal Company
56854 Pleasant Ridge Road
Alledonia, Ohio 43902

UNDERGROUND MINE FILE	
DATE FWD.	12/10/05
INITIALS	gd

SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:

SURNAME	DATE
REVIEWED BY:	
SM	12/5/05
SPR-MIS	12-6-05
HALL	12/7/2005
SM	12-8-05
Mosley	12-8-05

Dear Mr. Taylor:

The submittal titled "Proposed Intermediate 1145.5 Crest Phase for Slurry Dam No. 2" has been reviewed. The plan was dated September 2005 from Esmer & Associates. The No. 2 Slurry Impoundment, MSHA LD. No. 1211-OH03-00025-03 is located at the Powhatan No. 6 Mine, I.D. No. 33-01159. The submittal is hereby approved.

If you have any questions, please contact this office.

Sincerely,

ORIGINAL SIGNED BY
CARLOS MOSLEY
Kevin G. Stricklin
District Manager

cc:

Kelvin K. Wu, Tech Support

gd

bcc:

St. Clairsville Field Office (2)

Impoundment File

Main File

